

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF VERMONT

TIMOTHY H. SHEA,	:	
Plaintiff	:	
	:	
vs.	:	Docket No. 2:09-CV-176
	:	
WILLIAM H. FORRENCE, and	:	
PETER CORNELIN FORRENCE,	:	
Defendants.	:	

ORDER

Defendants filed a Motion in Limine to Exclude Expert Testimony (Doc. 49) on February 7, 2011. Prior to the close of the expert disclosure deadline Plaintiff filed a Designation of Hybrid/Fact Expert Witness in which he identified six treating physicians, including Drs. Rho and Ahn. None of the witnesses submitted a Rule 26(a)(2)(B) expert report. Some or all of the expert witnesses may testify to treatment provided to Plaintiff and to the cause of the injuries for which treatment was rendered.

The Court addressed this same issue in its ruling on November 8, 2010. Treating physicians may testify to treatment provided to parties, and to the cause of the injuries, provided that they determined the cause based upon their treatment. If the experts arrived at opinions regarding the cause of the injuries based in part upon information supplied during litigation, expert reports under Rule 26 are required.

The Motion in Limine is granted in part and denied in part. The identified treating physicians may testify to treatment provided to the plaintiff and to the cause of injuries provided that physician learned of the cause during the course of

treatment. The physicians may not testify to an opinion as to the cause of the injuries if discovered as part of the litigation.

DATED at Burlington, in the District of Vermont, this 1<sup>st</sup> day of March, 2011.

/s/ William K. Sessions III  
William K. Sessions III  
U.S. District Court Judge